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RECEIVED

June 8, 2006

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PUBLIC SERVICE
COMMISSION

Via Hand-Delivery

Hon. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

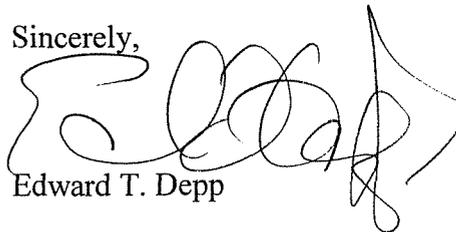
**Re: *In the Matter of: Interconnection Agreement between Ballard Rural Telephone Cooperative Corporation, Inc. and Big River Telephone Co., LLC*
*Case No. 2006-00192***

Dear Executive Director O'Donnell:

I have enclosed for filing in the above-styled case the original and eleven (11) copies of the (I.) Reply to Opposition to Motion for Reconsideration; and (II.) Request for Informal Conference. Please file stamp one of the enclosed copies and return it to us in the enclosed, self-addressed stamped envelope.

Thank you, and if you have any questions, please call me.

Sincerely,



Edward T. Depp

ETD/lb
Enclosure

cc: John E. Selent, Esq. (w/o encl.)
Holly C. Wallace, Esq. (w/o encl.)

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

Interconnection Agreement between)	
Ballard Rural Telephone Cooperative)	Case No. 2006-00192
Corporation, Inc. and Big River)	
Telephone Co., LLC)	

(I.) REPLY TO OPPOSITION TO MOTION FOR RECONSIDERATION; and
(II.) REQUEST FOR INFORMAL CONFERENCE

Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard Rural"), by counsel, hereby replies to the Opposition to Motion for Reconsideration filed by Big River Telephone Co., LLC ("Big River") and requests that the Public Service Commission of the Commonwealth of Kentucky ("Commission") schedule an informal conference between the parties and stay the effectiveness of its May 19, 2006 order at least until the completion of that informal conference. In support of its request, Ballard Rural states as follows.

This dispute arises as a result of substantial confusion among the parties and the Commission regarding the effective date of the interconnection agreement ("Agreement"). The procedural history of this matter can be quickly summarized as follows.

- On April 21, 2006, Ballard Rural submitted the Agreement for approval by the Commission.
- On April 26, 2006, the Executive Director of the Commission sent the parties a letter stating that "it is unnecessary for Staff to refer this matter for formal commission action" and that the Agreement "shall be effective on July 20, 2006."¹
- On May 16, 2006 (notwithstanding the Commission's April 26, 2006 letter), Big River moved the Commission for expedited approval of the Agreement.

¹ There has been some confusion regarding whether the Commission had a copy of this April 26, 2006 letter in its files. Accordingly, a copy of this letter is attached hereto as Exhibit 1.

- On May 19, 2006, Ballard Rural notified the Commission that it intended to respond in opposition to Big River's motion.
- Notwithstanding Ballard Rural's notification of intent to respond in opposition to Big River's motion, the Commission granted Big River's motion that same day (May 19, 2006).
- Accordingly, on May 24, 2006 Ballard Rural filed a motion for reconsideration of the Commission's order.
- On June 5, 2006, Big River responded in opposition to Ballard Rural's motion for reconsideration.

In its recently filed, Opposition to Motion for Reconsideration, Big River takes great pain to avoid any discussion of the Commission's April 26, 2006 letter. The substantive paragraph of that letter provides, in its entirety, as follows.

This is to notify you that Commission Staff has completed its review of your agreement submitted on April 21, 2006, and has concluded that it is in compliance with federal and state law and with previous Commission orders. Accordingly, it is unnecessary for Staff to refer this matter for formal Commission action. The agreement will be maintained in this office and, pursuant to 47 U.S.C. 252, shall be effective on July 20, 2006.

Id. (Emphasis added.) This is nothing short of an express indication that the Agreement would be approved by operation of law, pursuant to 47 U.S.C. § 252(e)(4), ninety days after it was filed.² In reliance upon this letter, Ballard Rural began preparing for the Agreement to become effective – as indicated in the Commission's letter – on July 20, 2006.

² 47 U.S.C. § 252(e)(4) provides, in relevant part, "If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation... the agreement shall be deemed approved." *Id.*

It is not clear whether the Commission was aware that its April 26, 2006 letter had already addressed the approval and effective date of the Agreement³, when it issued its May 19, 2006 order granting Big River's Motion for Expedited Approval without giving Ballard Rural even three days to respond. Big River's Motion for Expedited Approval did not represent that there was agreement between the parties with respect to the effective date of the Agreement. And, as indicated by Ballard Rural's May 19 notification to the Commission, Ballard Rural in fact opposed the motion. Nevertheless, that May 19, 2006 order – and the fact that it explicitly contradicts the Commission's April 26, 2006 letter – has spurred this dispute.

As noted in its motion for reconsideration, Ballard Rural is not presently prepared to operate under the Agreement. In this respect, the Commission should note that the Agreement represents Ballard Rural's first interconnection agreement in the cooperative's history. Accordingly, it is imperative that the company have sufficient time to educate its personnel and familiarize them with the operational procedures and requirements of the Agreement. It is also important that Ballard Rural have sufficient time for its local number portability cost-recovery tariff updates with NECA to become effective; typically that process takes approximately six weeks from the date of filing. The cooperative is presently hurrying to make those filings in light of the Commission's May 19, 2006 order. If the Agreement is not made effective until July 20, 2006 (as originally indicated by the Commission), then Ballard Rural will clearly be ready to operate under the Agreement at that time.

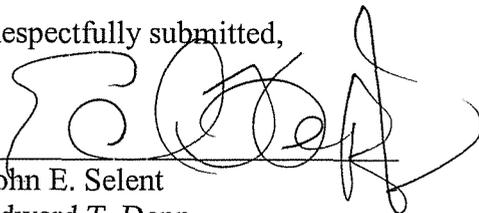
Moreover, Ballard Rural has become concerned that Big River may be planning to violate the very terms of the Agreement immediately upon connection of the parties' facilities. The Agreement prohibits Big River from serving as a "front man" for third-parties seeking to provide

³ See May 30, 2006 electronic mail string from Douglas Brent, Esq., to Edward T. Depp, Esq., attached hereto as Exhibit 2.

telecommunications services.⁴ For example, Ballard Rural believes that cable companies may be marketing a telephone service offering in Ballard Rural's service territory, despite the fact that no local cable companies have an existing interconnection agreement with Ballard Rural, and despite the fact that no local cable companies have (to date) even made a request for interconnection with Ballard Rural. If Big River is pressing the Commission for expedited approval of the Agreement just so it can promptly breach it, the Commission should not be quick to condone such activity without at least taking the opportunity to discuss this matter further with the parties.

Therefore, Ballard Rural respectfully requests that: (i) the Commission schedule an informal conference in this matter as soon as possible;⁵ and (ii) the Commission stay the enforcement of its May 19, 2006 order in the interim.

Respectfully submitted,



John E. Selent

Edward T. Depp

DINSMORE & SHOHL LLP

1400 PNC Plaza

500 W. Jefferson Street

Louisville, KY 40202

(502) 540-2300 (tel.)

(502) 585-2207 (fax)

**COUNSEL TO BALLARD RURAL
TELEPHONE COOPERATIVE
CORPORATION, INC.**

⁴ Section 1.1 of Attachment C to the Agreement restricts the scope of traffic exchange to "Local Traffic," which is in turn defined in section 2.40 of Attachment A to the Agreement as "traffic that is originated by an End User of one Party on that Party's network and terminates to an End User of the other Party on that other Party's network within Ballard Rural's local serving area as defined by the effective local exchange tariff(s) of Ballard Rural..." *Id.* "End User" is subsequently defined in section 2.18 of Attachment A to the Agreement as "the residential or business subscriber that is the ultimate end user..." *Id.* (Emphasis added.) As a purported service provider, a local cable company would not, of course, constitute an ultimate end user of Big River.

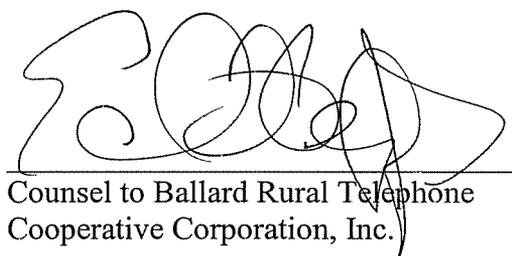
⁵ Ballard Rural notes that it previously requested that Big River join in its request for an informal conference to sort these matters out with the Commission. That request has been outstanding for at least a week, as of the date of this filing.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following party by first-class United States mail, sufficient postage prepaid, and electronic mail this 8th day of June, 2006.

Douglas F. Brent, Esq.
Stoll Keenon Ogden PLLC
2650 Aegon Center
400 West Market Street
Louisville, KY 40202
douglas.brent@skofirm.com

Counsel to Big River Telephone Co., LLC



Counsel to Ballard Rural Telephone
Cooperative Corporation, Inc.



Ernie Fletcher
Governor

Mark David Goss
Chairman

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Teresa J. Hill
Vice Chairman

Christopher L. Lilly
Commissioner
Department of Public Protection

Gregory Coker
Commissioner

April 26, 2006

Ballard Rural Telephone Cooperative Corp., Inc.
Attention: Stephen Jones II
PO Box 209, 158 West 2nd Street
LaCenter, KY 42056

Big River Telephone Company, LLC
Attention: Jennifer Rinesmith
24 South Minnesota Avenue
Cape Girardeau, MO 63703

Re: Interconnection Agreement Negotiated by Ballard Rural Telephone
Cooperative Corp., Inc. and Big River Telephone Company, LLC
Pursuant to Sections 251, 252 and 271 of the
Telecommunications Act of 1996 - PSC Reference No. 00845

Gentlemen:

This is to notify you that Commission Staff has completed its review of your agreement submitted on April 21, 2006, and has concluded that it is in compliance with federal and state law and with previous Commission orders. Accordingly, it is unnecessary for Staff to refer this matter for formal Commission action. The agreement will be maintained in this office and, pursuant to 47 U.S.C. 252, shall be effective on July 20, 2006.

If you have not already done so, the Commission requests that Ballard RTCC submit the subject agreement in Microsoft Word Format (.doc) or Portable Document Format (.pdf) on either a CD or 3.5-inch high-density diskette.

If you have questions regarding this matter, please do not hesitate to contact Jim Stevens at Extension 238.

Sincerely yours,

Beth O'Donnell
Executive Director

vh/
cc: Dinsmore & Shohl
Louisville, KY 40202

KentuckyUnbridledSpirit.com



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Depp,Tip

From: Douglas Brent [Douglas.Brent@skofirm.com]
Sent: Tuesday, May 30, 2006 4:22 PM
To: Depp,Tip
Subject: FW: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone
Attachments: Douglas F. Brent (Douglas.Brent@skofirm.com).vcf

Tip,

do you have a copy of the PSC letter referenced on page one of Ballard Rural's motion for reconsideration? As you can see below, I've not been able to get a copy from the PSC. Thanks.

Doug

Douglas F. Brent
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
502 333 6000
502 568 5734 direct
douglas.brent@skofirm.com
www.skofirm.com



S T O L L · K E E N O N · O G D E N

From: Wainscott, Donna J (PSC) [mailto:DonnaJ.Wainscott@ky.gov]
Sent: Tuesday, May 30, 2006 4:02 PM
To: Douglas Brent
Subject: RE: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone

Sorry, Doug. Susan and I have both looked everywhere and there was no acknowledgment letter sent out for this case. I don't know why this was overlooked, but it happened just the same. You may see if counsel for the other party can fax you a copy to see if they are correct about this matter. Just let me know.

Thanks,
Donna

From: Douglas Brent [mailto:Douglas.Brent@skofirm.com]
Sent: Tuesday, May 30, 2006 3:42 PM
To: Wainscott, Donna J (PSC)
Subject: RE: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone

I have the Order. I do not have the letter because it was sent prior to the time I filed the motion for expedited treatment on behalf of Big River Telephone.

6/8/2006

I imagine the reason the letter is not in the file is because the case had not been docketed at the time the letter was sent. I am certain one was sent because counsel for the other party has mentioned having it.

Doug

From: Wainscott, Donna J (PSC) [mailto:DonnaJ.Wainscott@ky.gov]
Sent: Tuesday, May 30, 2006 3:38 PM
To: Douglas Brent
Subject: RE: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone

Hi Doug,
I finally located the case file, but there is no acknowledgment letter in the file. I'm not sure why this happened, but it seems that one was not sent out. Did you get a copy of the Final Order.

Thanks,
Donna

From: Douglas Brent [mailto:Douglas.Brent@skofirm.com]
Sent: Tuesday, May 30, 2006 1:15 PM
To: Wainscott, Donna J (PSC)
Subject: RE: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone

Hi Donna -- any success in finding a copy of the letter? Is this something Jim Stevens might have?

Doug

From: Wainscott, Donna J (PSC) [mailto:DonnaJ.Wainscott@ky.gov]
Sent: Friday, May 26, 2006 4:32 PM
To: Douglas Brent
Subject: RE: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone

I could not locate the file. Maybe I can find it Monday.

From: Douglas Brent [mailto:Douglas.Brent@skofirm.com]
Sent: Friday, May 26, 2006 1:32 PM
To: Wainscott, Donna J (PSC)
Subject: RE: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone

Donna,

I had checked this link before calling you. I need the staff letter acknowledging the filing of the agreement. That letter is not posted. Thank you.

Doug

From: Wainscott, Donna J (PSC) [mailto:DonnaJ.Wainscott@ky.gov]
Sent: Friday, May 26, 2006 1:03 PM
To: Douglas Brent
Subject: Case No. 2006-00192 - Ballard RTCC & Big Rivers Telephone

Doug,

Here is the link to the above mentioned case. You may access all documents in this case from here.

<http://psc.ky.gov/pscscf/2006-00192/>

If you need anything else, just let me know.

Thanks,
Donna

Donna J. Wainscott
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601
Phone: 502-564-3940, ext. 252
Fax: 502-564-3460
Email: DonnaJ.Wainscott@ky.gov
Homepage: <http://psc.ky.gov/pschome.htm>